

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

EDWARD T. KENNEDY,

Plaintiff,

V.

COMMISSIONER DEPARTMENT OF  
THE TREASURY INTERNAL REVENUE  
SERVICE, *et al.*,

Defendants.

Case No. 5:18-cv-00257-JFL

## **UNITED STATES' MOTION TO DISMISS**

The United States of America, as the real party in interest and in place of the named defendants, Commissioner, Department of the Treasury Internal Revenue Service (“IRS”) and the unnamed IRS employee, moves to dismiss the Complaint for lack of subject matter jurisdiction pursuant to Fed. R. Civ. P. 12(b)(1), and for failure to state a claim pursuant to Fed. R. Civ. P. 12(b)(6).

The grounds for this Motion, as more fully set forth in the Brief in Support, are that (1) the Court lacks jurisdiction where Plaintiff fails to allege a waiver of sovereign immunity and the Anti-Injunction Act bars the injunctive relief requested, and (2) Plaintiff fails to allege a plausible claim for damages under Section 7433 of the Internal Revenue Code.

This Motion is based on the pleadings, the records and files in this case, and the Brief in Support attached herewith.

//

//

WHEREFORE, the United States requests that the Court dismiss all claims made in the Plaintiff's Complaint, and for such further relief as may be appropriate under the circumstances.

Date: April 6, 2018

RICHARD E. ZUCKERMAN  
Principal Deputy Assistant Attorney General

/s/ Catriona M. Coppler

CATRIONA M. COPPLER

Trial Attorney, Tax Division

U.S. Department of Justice

P.O. Box 227

Washington, D.C. 20044

202-514-5153 (v)

202-514-6866 (f)

Catriona.M.Coppler@usdoj.gov

**CERTIFICATE OF SERVICE**

I hereby certify that on April 6, 2018, I electronically filed the foregoing *Motion to Dismiss* and *Brief in Support* with the Clerk of Court using the CM/ECF system, and sent via first class mail, to the following:

EDWARD T. KENNEDY  
401 Tillage Rd.  
Breinigsville, PA 18031

/s/ Catriona M. Coppler  
CATRIONA M. COPPLER  
Trial Attorney  
United States Department of Justice, Tax Division